

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBERT W GARRISON,

Plaintiff,

v.

STATE OF WASHINGTON  
DEPARTMENT CORRECTIONS et al.,

Defendant.

CASE NO. C12-5396 BHS-JRC

REPORT AND RECOMMENDATION

NOTED FOR:

SEPTEMBER 28, 2012

The District Court has referred this 42 U.S.C. § 1983 civil rights action to United States Magistrate Judge, J. Richard Creatura. The Court's authority for the referral is 28 U.S.C. § 636 (b) (1) (A) and (B), and local Magistrate Judge Rules MJR3 and MJR4.

When plaintiff filed this action he attempted to file it as a class action (ECF No. 1). Plaintiff also sent the Court a letter asking for leave to amend the complaint (ECF No. 5). The Court granted plaintiff's letter motion and explained to him that he did not need leave of Court because no answer had been filed (ECF No. 8). The Court also explained that as a pro se litigant, plaintiff could not represent a class and he needed to plead facts showing how the defendants had

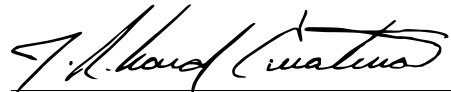
1 violated his rights (ECF No. 8). Plaintiff was given until July 6, 2012, to file an amended  
2 complaint.

3 Plaintiff did not file an amended complaint. On July 25, 2012, the Court entered an Order  
4 to Show Cause (ECF No. 9). Plaintiff was given until August 24, 2012, to either file his  
5 amended complaint or show cause why he had not complied with the Court's order. Plaintiff  
6 was specifically informed that failure to act would result in a recommendation that the action be  
7 dismissed. Again, plaintiff failed to file any response.

8 Plaintiff's failure to comply with a Court order is grounds to dismiss an action. *See*, Fed.  
9 R. Civ. P. 41 (b). The Court now recommends that this action be dismissed for failure to  
10 prosecute, failure to state a claim, and failure to obey Court orders. This acts as an adjudication  
11 on the merits and would count as a strike pursuant to 28 U.S.C. § 1915 (g). In forma pauperis  
12 status should be revoked for purposes of appeal.

13 Pursuant to 28 U.S.C. § 636 (b) (1) and Fed. R. Civ. P. 72 (b), the parties shall have  
14 fourteen (14) days from service of this Report to file written objections. *See also* Fed. R. Civ. P.  
15 6. Failure to file objections will result in a waiver of those objections for purposes of de novo  
16 review by the district judge. *See* 28 U.S.C. § 636 (b) (1) (C). Accommodating the time limit  
17 imposed by Fed. R. Civ. P. 72 (b), the clerk is directed to set the matter for consideration on  
18 September 28, 2012, as noted in the caption.

19 Dated this 29th day of August, 2012.

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22 J. Richard Creatura  
23 United States Magistrate Judge  
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